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SOLECTRON CORPORATION, FLEXTRONICS  
INTERNATIONAL, USA, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MOHAN GIL, RODNEY CARR, TONY  
DANIEL, AND JERMAINE WRIGHT,  
individually, on behalf of others similarly  
situated, and on behalf of the general  
public,

Plaintiffs,

v.

SOLECTRON CORPORATION,  
FLEXTRONICS INTERNATIONAL,  
USA, INC., and DOES 1-10 inclusive,

Defendants s.

Case No. C07-06414 RMW HRL

**DEFENDANTS SOLECTRON  
CORPORATION'S AND FLEXTRONICS  
INTERNATIONAL, USA, INC.'S ANSWER  
AND AFFIRMATIVE DEFENSES TO  
PLAINTIFFS' COMPLAINT FOR  
DAMAGES, RESTITUTION AND  
INJUNCTIVE RELIEF**

(CASE NO. C07-06414 RMW HRL)

**Defendants' Answer to Complaint**

1 Defendants Solectron Corporation and Flextronics International, USA, Inc.  
2 (“Defendants”), by and through their attorneys, for its Answer and Affirmative Defenses to  
3 Plaintiffs’ Complaint for Damages, Restitution and Injunctive Relief (“Complaint”), and responding  
4 to the corresponding numbered paragraphs of Plaintiffs’ Complaint, state as follows:

5 **PRELIMINARY STATEMENT**

6 1. Answering Paragraph 1 of the Complaint, Defendants admit that Plaintiffs  
7 purport to bring a collective and class action on behalf of themselves and others. Defendants further  
8 admit that Plaintiffs Gil, Carr and Wright were or are employed by Defendant Solectron Corporation  
9 (“Solectron”) and/or Flextronics International USA, Inc. (“Flextronics”) as non-exempt employees.  
10 Defendants deny that Plaintiff Daniel was employed by Solectron. Except as so specifically  
11 admitted Defendants deny the remaining allegations contained in Paragraph 1 of the Complaint.

12 2. Answering Paragraph 2 of the Complaint, Defendants deny the allegations  
13 contained in Paragraph 2 of the Complaint.

14 3. Answering Paragraph 3 of the Complaint, Defendants deny the allegations  
15 contained in Paragraph 3 of the Complaint.

16 4. Answering Paragraph 4 of the Complaint, Defendants deny the allegations  
17 contained in Paragraph 4 of the Complaint.

18 5. Answering Paragraph 5 of the Complaint, Defendants deny the allegations  
19 contained in Paragraph 5 of the Complaint.

20 6. Answering Paragraph 6 of the Complaint, Defendants deny the allegations  
21 contained in Paragraph 6 of the Complaint.

22 **THE PARTIES**

23 7. Answering Paragraph 7 of the Complaint, Defendants admit that Plaintiff Gil  
24 was employed by Defendant Solectron from 2001 through August 2005 as a non-exempt assembly  
25 employee in Solectron’s Lincoln, California facility. Defendants are without knowledge or  
26 information sufficient to form a belief as to where Plaintiff Gil currently resides, and on that basis  
27 deny that allegation. Except as so specifically admitted, Defendants deny the remaining allegations  
28 contained in Paragraph 7 of the Complaint.

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**Defendants’ Answer to Complaint**

1           8.     Answering Paragraph 8 of the Complaint, Defendants admit that Plaintiff Carr  
2 resides in Raleigh, North Carolina, and was employed by Defendant Solectron, or a wholly owned  
3 subsidiary of Solectron, from 2001 through October 2007, and by Defendant Flextronics from  
4 October 2007 through the present. Defendants further admit that Plaintiff Carr is currently  
5 employed at the Flextronics facility in Raleigh, North Carolina, as non-exempt technician employee.  
6 Defendants also admit that Plaintiff Carr worked at Solectron's Creedmoor facility. Except as so  
7 specifically admitted, Defendants deny the remaining allegations contained in Paragraph 8 of the  
8 Complaint.

9           9.     Answering Paragraph 9 of the Complaint, Defendants deny the allegations  
10 contained in Paragraph 9 of the Complaint.

11           10.    Answering Paragraph 10 of the Complaint, Defendants admit that Plaintiff  
12 Wright was employed by Defendant Solectron from March 2006 through June 2006 as a non-exempt  
13 technician in Solectron's Louisville, Kentucky facility. Defendants are without knowledge or  
14 information sufficient to form a belief as to where Plaintiff Wright currently resides, and on that  
15 basis deny that allegation. Except as so specifically admitted, Defendants deny the remaining  
16 allegations contained in Paragraph 10 of the Complaint.

17           11.    Answering Paragraph 11 of the Complaint, Defendants admit that Defendant  
18 Solectron Corporation was a corporation organized under the laws of Delaware and had its corporate  
19 headquarters in Milpitas, California, which is in Santa Clara County.

20           12.    Answering Paragraph 12 of the Complaint, Defendants admit the allegations  
21 contained in Paragraph 12 of the Complaint.

22           13.    Answering Paragraph 13 of the Complaint, Defendants deny the allegations  
23 contained in Paragraph 13 of the Complaint.

24           14.    Answering Paragraph 14 of the Complaint, Defendants deny the allegations  
25 contained in Paragraph 14 of the Complaint.

26                           **JURISDICTION AND VENUE**

27           15.    Answering Paragraph 15 of the Complaint, Defendants deny violating any  
28 laws or taking any actions what would support the claims in Plaintiffs' Complaint and give the Court

jurisdiction over Plaintiffs' claims. Defendants admit that Plaintiffs purport to bring claims arising under this Court's original jurisdiction pursuant to 28 U.S.C. section 1331 and that Plaintiffs purport to allege claims arising under this Court's supplemental jurisdiction. Defendants also admit that Plaintiffs purport to bring this case under the FLSA, 29 U.S.C. section 207 *et seq.*

16. Answering Paragraph 16 of the Complaint, Defendants deny violating any laws or taking any actions what would support the claims in Plaintiffs' Complaint and make venue proper in the United States District Court, Northern District of California, pursuant to 28 U.S.C. section 1391. Defendants admit that Defendant Soletron's corporate headquarters was located in Santa Clara County, California and that Defendant Flextronics' corporate headquarters is currently located in Santa Clara County, California. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that a substantial part of the events giving rise to the claims occurred in Santa Clara County and, therefore, on that basis further deny the allegations contained in Paragraph 16 of the Complaint.

17. Answering Paragraph 17 of the Complaint, Defendants deny violating any laws or taking any actions that would support the claims in Plaintiffs' Complaint and make venue proper in the San Jose Division of the United States District Court, Northern District of California, pursuant to Northern District Local Rule 3-2. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that a substantial part of the events giving rise to the claims occurred in Santa Clara County and, therefore, on that basis further deny the allegations contained in Paragraph 17 of the Complaint.

### **FACTUAL ALLEGATIONS**

18. Answering Paragraph 18 of the Complaint, Defendants admit that Plaintiffs Gil, Carr and Wright are employed or were employed with Soletron and/or Flextronics in the past five years assembling and/or repairing electronics and electronic components. Defendants deny that Plaintiff Daniel was employed by Soletron. Defendants deny that this action is appropriate for treatment as either a collective action or a class action and that it should be maintained on behalf of persons other than Plaintiffs. Defendants also deny that Plaintiffs are or were similarly situated to each other or any other Soletron or Flextronics employees. Except as so specifically admitted,

1 Defendants deny the remaining allegations contained in Paragraph 18 of the Complaint.

2           19. Answering Paragraph 19 of the Complaint, Defendants admit that Plaintiffs  
3 Gil, Carr and Wright are or were required to pass through security checkpoints. Defendants deny  
4 that Plaintiff Daniel was employed by Solectron. Defendants also admit that other employees are or  
5 were required to pass through security checkpoints. Defendants deny that Plaintiffs were not  
6 compensated as required by the applicable federal and state laws for the time spent waiting in line, if  
7 any, to pass through security. Defendants further deny that this action is appropriate for treatment as  
8 either a collective action or a class action and that it should be maintained on behalf of persons other  
9 than Plaintiffs. Defendants also deny that Plaintiffs are or were similarly situated to each other or  
10 any other Solectron or Flextronics employees. Except as so specifically admitted, Defendants deny  
11 the remaining allegations contained in Paragraph 19 of the Complaint.

12           20. Answering Paragraph 20 of the Complaint, Defendants admit that Plaintiffs  
13 Gil, Carr and/or Wright and/or other employees are or were required to wear certain protective gear  
14 while performing their jobs. Defendants deny that Plaintiff Daniel was employed by Solectron.  
15 Defendants further admit that this protective gear could have included smocks, safety glasses, wrist  
16 straps and ankle straps. Defendants also admit that a purpose of certain protective gear is to prevent  
17 static electricity from damaging electronics and electronic components. Defendants deny that this  
18 action is appropriate for treatment as either a collective action or a class action and that it should be  
19 maintained on behalf of persons other than Plaintiffs. Defendants also deny that Plaintiffs are or  
20 were similarly situated to each other or any other Solectron or Flextronics employees. Except as so  
21 specifically admitted, Defendants deny the remaining allegations contained in Paragraph 20 of the  
22 Complaint.

23           21. Answering Paragraph 21 of the Complaint, Defendants deny the allegations  
24 contained in Paragraph 21 of the Complaint.

25           22. Answering Paragraph 22 of the Complaint, Defendants deny the allegations  
26 contained in Paragraph 22 of the Complaint.

27           23. Answering Paragraph 23 of the Complaint, Defendants deny the allegations  
28 contained in Paragraph 23 of the Complaint.

1           24.     Answering Paragraph 24 of the Complaint, Defendants deny the allegations  
2 contained in Paragraph 24 of the Complaint.

3           25.     Answering Paragraph 25 of the Complaint, Defendants deny the allegations  
4 contained in Paragraph 25 of the Complaint.

5           26.     Answering Paragraph 26 of the Complaint, Defendants admit that Plaintiffs  
6 Gil, Carr and Wright and other employees are or were required to clock in at the beginning of their  
7 workday and to clock out at the end of their work day. Defendants deny that Plaintiff Daniel was  
8 employed by Solectron. Defendants deny that this action is appropriate for treatment as either a  
9 collective action or a class action and that it should be maintained on behalf of persons other than  
10 Plaintiffs. Defendants also deny that Plaintiffs are or were similarly situated to each other or any  
11 other Solectron or Flextronics employees. Except as so specifically admitted, Defendants deny the  
12 remaining allegations contained in Paragraph 26 of the Complaint.

13           27.     Answering Paragraph 27 of the Complaint, Defendants deny the allegations  
14 contained in Paragraph 27 of the Complaint.

15           28.     Answering Paragraph 28 of the Complaint, Defendants deny the allegations  
16 contained in Paragraph 28 of the Complaint.

17           29.     Answering Paragraph 29 of the Complaint, Defendants deny the allegations  
18 contained in Paragraph 29 of the Complaint.

19           30.     Answering Paragraph 30 of the Complaint, Defendants deny the allegations  
20 contained in Paragraph 30 of the Complaint.

21                   **NATIONAL CLASS ALLEGATIONS**

22           31.     Answering Paragraph 31 of the Complaint, Defendants admit that Plaintiffs  
23 purport to bring a nationwide class action pursuant to Rule 23 of the Federal Rules of Civil  
24 Procedure. Defendants deny that this action is appropriate for treatment as a class action or that it  
25 should be maintained on behalf of any persons other than Plaintiffs. Defendants also deny that  
26 Plaintiffs are or were similarly situated to each other or any other Solectron or Flextronics  
27 employees. Except as so specifically admitted, Defendants deny the remaining allegations contained  
28 in Paragraph 31 of the Complaint.



32. Answering Paragraph 32 of the Complaint, Defendants deny the allegations contained in Paragraph 32 of the Complaint.

33. Answering Paragraph 33 of the Complaint, Defendants deny the allegations contained in Paragraph 33 of the Complaint.

34. Answering Paragraph 34 of the Complaint, Defendants deny the allegations contained in Paragraph 34 of the Complaint.

35. Answering Paragraph 35 of the Complaint, Defendants deny the allegations contained in Paragraph 35 of the Complaint.

36. Answering Paragraph 36 of the Complaint, Defendants deny the allegations contained in Paragraph 36 and each subpart of Paragraph 36 of the Complaint.

37. Answering Paragraph 37 of the Complaint, Defendants deny the allegations contained in Paragraph 37 of the Complaint.

38. Answering Paragraph 38 of the Complaint, Defendants deny the allegations contained in Paragraph 38 of the Complaint.

39. Answering Paragraph 39 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations that Plaintiffs intend to send notice to all members of the Proposed National Class and that Defendants have available to them the names and current addresses of all members of the Proposed National Class and, therefore, on that basis deny the allegations contained in Paragraph 39 of the Complaint.

#### **CALIFORNIA CLASS ALLEGATIONS**

40. Answering Paragraph 40 of the Complaint, Defendants admit that Plaintiff Gil purports to bring a California class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. Defendants deny that this action is appropriate for treatment as a class action or that it should be maintained on behalf of any persons other than Plaintiff Gil. Defendants also deny that Plaintiff Gil is or was similarly situated to any other Solelectron or Flextronics employees. Except as so specifically admitted, Defendants deny the remaining allegations contained in Paragraph 40 of the Complaint.

41. Answering Paragraph 41 of the Complaint, Defendants deny the allegations

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1 contained in Paragraph 41 of the Complaint.

2 42. Answering Paragraph 42 of the Complaint, Defendants deny the allegations  
3 contained in Paragraph 42 of the Complaint.

4 43. Answering Paragraph 43 of the Complaint, Defendants deny the allegations  
5 contained in Paragraph 43 of the Complaint.

6 44. Answering Paragraph 44 of the Complaint, Defendants deny the allegations  
7 contained in Paragraph 44 of the Complaint.

8 45. Answering Paragraph 45 of the Complaint, Defendants deny the allegations  
9 contained in Paragraph 45 and each subpart of Paragraph 45 of the Complaint.

10 46. Answering Paragraph 46 of the Complaint, Defendants deny the allegations  
11 contained in Paragraph 46 of the Complaint.

12 47. Answering Paragraph 47 of the Complaint, Defendants deny the allegations  
13 contained in Paragraph 47 of the Complaint.

14 48. Answering Paragraph 48 of the Complaint, Defendants are without knowledge  
15 or information sufficient to form a belief as to the truth of the allegations that Plaintiffs intend to  
16 send notice to all members of the Proposed California Class and that Defendants have available to  
17 them the names and current addresses of all members of the Proposed California Class and,  
18 therefore, on that basis deny the allegations contained in Paragraph 48 of the Complaint.

19 **KENTUCKY CLASS ALLEGATIONS**

20 49. Answering Paragraph 49 of the Complaint, Defendants admit that Plaintiff  
21 Wright purports to bring a Kentucky class action pursuant to Rule 23 of the Federal Rules of Civil  
22 Procedure. Defendants deny that this action is appropriate for treatment as a class action or that it  
23 should be maintained on behalf of any persons other than Plaintiff Wright. Defendants also deny  
24 that Plaintiff Wright is or was similarly situated to any other Solectron or Flextronics employees.  
25 Except as so specifically admitted, Defendants deny the remaining allegations contained in  
26 Paragraph 49 of the Complaint.

27 50. Answering Paragraph 50 of the Complaint, Defendants deny the allegations  
28 contained in Paragraph 50 of the Complaint.



1           51. Answering Paragraph 51 of the Complaint, Defendants deny the allegations  
2 contained in Paragraph 51 of the Complaint.

3           52. Answering Paragraph 52 of the Complaint, Defendants deny the allegations  
4 contained in Paragraph 52 of the Complaint.

5           53. Answering Paragraph 53 of the Complaint, Defendants deny the allegations  
6 contained in Paragraph 53 of the Complaint.

7           54. Answering Paragraph 54 of the Complaint, Defendants deny the allegations  
8 contained in Paragraph 54 and each subpart of Paragraph 54 of the Complaint.

9           55. Answering Paragraph 55 of the Complaint, Defendants deny the allegations  
10 contained in Paragraph 55 of the Complaint.

11           56. Answering Paragraph 56 of the Complaint, Defendants deny the allegations  
12 contained in Paragraph 56 of the Complaint.

13           57. Answering Paragraph 57 of the Complaint, Defendants are without knowledge  
14 or information sufficient to form a belief as to the truth of the allegations that Plaintiffs intend to  
15 send notice to all members of the Proposed Kentucky Class and that Defendants have available to  
16 them the names and current addresses of all members of the Proposed Kentucky Class and,  
17 therefore, on that basis deny the allegations contained in Paragraph 57 of the Complaint.

18                           **COLLECTIVE ACTION ALLEGATIONS**

19           58. Answering Paragraph 58 of the Complaint, Defendants admit that Plaintiffs  
20 purport to bring this action on behalf of themselves and on behalf of other allegedly similarly  
21 situated employees pursuant to 29 U.S.C. section 216(b). Defendants deny that this action is  
22 appropriate for treatment as a collective action or that it should be maintained on behalf of any  
23 persons other than Plaintiffs. Defendants also deny that Plaintiffs are or were similarly situated to  
24 each other or any other Soletron or Flextronics employees. Except as so specifically admitted,  
25 Defendants deny the remaining allegations contained in Paragraph 58 of the Complaint.

26           59. Answering Paragraph 59 of the Complaint, Defendants deny the allegations  
27 contained in Paragraph 59 of the Complaint.

28           60. Answering Paragraph 60 of the Complaint, Defendants deny the allegations

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1 contained in Paragraph 60 of the Complaint.

2 61. Answering Paragraph 61 of the Complaint, Defendants deny the allegations  
3 contained in Paragraph 61 of the Complaint.

4 62. Answering Paragraph 62 of the Complaint, Defendants deny the allegations  
5 contained in Paragraph 62 of the Complaint.

6 63. Answering Paragraph 63 of the Complaint, Defendants are without knowledge  
7 or information sufficient to form a belief as to the truth of the allegation that Defendants have  
8 available to them the names and current addresses of all members of the Proposed Collective Class  
9 and, therefore, on that basis deny that allegation. Defendants otherwise deny the remaining  
10 allegations contained in Paragraph 64 of the Complaint.

11 **FIRST CLAIM FOR RELIEF**

12 **(Failure to Pay Overtime Compensation in Violation of the FLSA)**

13 **On Behalf of Plaintiffs and the Nationwide FLSA Collective Class**

14 64. Answering Paragraph 64 of the Complaint, which incorporates by reference  
15 the allegations of Paragraphs 1 through 63 of the Complaint, Defendants incorporate herein by  
16 reference their answers to said Paragraphs in this Answer.

17 65. Answering Paragraph 65 of the Complaint, Defendants are without knowledge  
18 or information sufficient to form a belief as to the truth of the allegation that Plaintiffs have signed  
19 consent forms to join this lawsuit, that such consent forms are attached to the Complaint or that  
20 Plaintiffs anticipate that other individuals will sign consent forms and join the lawsuit as plaintiffs  
21 and, therefore, on that basis deny the allegations contained in Paragraph 65 of the Complaint.

22 66. Answering Paragraph 66 of the Complaint, Defendants admit that they  
23 employed and/or continue to employ Plaintiffs Gil, Carr and Wright and other employees.  
24 Defendants deny that Plaintiff Daniel was employed by Solectron. Defendants deny that this action  
25 is appropriate for treatment as a collective action or that it should be maintained on behalf of any  
26 persons other than Plaintiffs. Defendants also deny that Plaintiffs are or were similarly situated to  
27 each other or any other Solectron or Flextronics employees. Defendants affirmatively state that the  
28 allegation that Defendants have been and continue to be an "employer" within the meaning the

1 FLSA, 20 U.S.C. section 203 is a legal conclusion to which no response is required and the statutory  
 2 provisions of the FLSA speak for themselves. Except as so specifically admitted, Defendants deny  
 3 the remaining allegations contained in Paragraph 66 of the Complaint.

4 67. Answering Paragraph 67 of the Complaint, Defendants affirmatively state that  
 5 Paragraph 67 asserts a legal conclusion to which no response is required and that the statutory  
 6 provisions of the FLSA speak for themselves.

7 68. Answering Paragraph 68 of the Complaint, Defendants deny the allegations  
 8 contained in Paragraph 68 of the Complaint.

9 69. Answering Paragraph 69 of the Complaint, Defendants deny the allegations  
 10 contained in Paragraph 69 of the Complaint.

11 70. Answering Paragraph 70 of the Complaint, Defendants deny the allegations  
 12 contained in Paragraph 70 of the Complaint.

13 71. Answering Paragraph 71 of the Complaint, Defendants admit that Plaintiffs  
 14 purport to seek damages under the FLSA, but deny that Plaintiffs are entitled to the relief sought or  
 15 any other relief that may be available under the FLSA. Except as so specifically admitted,  
 16 Defendants deny the remaining allegations contained in Paragraph 71 of the Complaint.

17 72. Answering Paragraph 72 of the Complaint, Defendants admit that Plaintiffs  
 18 purport to seek attorneys' fees and costs under the FLSA, but deny that Plaintiffs are entitled to the  
 19 relief sought or any other relief that may be available under the FLSA. Except as so specifically  
 20 admitted, Defendants deny the remaining allegations contained in Paragraph 72 of the Complaint.

## 21 **SECOND CLAIM FOR RELIEF**

### 22 **(Failure to Pay Overtime Compensation in Violation of California Law)**

#### 23 **On Behalf of the California Class Representative and California Class**

24 73. Answering Paragraph 73 of the Complaint, which incorporates by reference  
 25 the allegations of Paragraphs 1 through 72 of the Complaint, Defendants incorporate herein by  
 26 reference their answers to said Paragraphs in this Answer.

27 74. Answering Paragraph 74 of the Complaint, Defendants affirmatively state that  
 28 Paragraph 74 asserts a legal conclusion to which no response is required and that the statutory

provisions of the California Wage Orders and Labor Code speak for themselves.

75. Answering Paragraph 75 of the Complaint, Defendants deny the allegations contained in Paragraph 75 of the Complaint.

76. Answering Paragraph 76 of the Complaint, Defendants deny the allegations contained in Paragraph 76 of the Complaint.

**THIRD CLAIM FOR RELIEF**

**(Waiting Time Penalties in Violation of California Law)**

**On Behalf of the California Class Representative and California Class**

77. Answering Paragraph 77 of the Complaint, which incorporates by reference the allegations of Paragraphs 1 through 76 of the Complaint, Defendants incorporate herein by reference their answers to said Paragraphs in this Answer.

78. Answering Paragraph 78 of the Complaint, Defendants admit that Plaintiffs purport to bring this action on behalf of other allegedly similarly situated employees who were employed by Defendants and have since been terminated by or resigned their positions with Defendants. Defendants deny that this action is appropriate for treatment as a class action or that it should be maintained on behalf of any persons other than Plaintiffs. Defendants also deny that Plaintiffs are or were similarly situated to each other or any other Solectron or Flextronics employees. Except as so specifically admitted, Defendants deny the remaining allegations contained in Paragraph 78 of the Complaint.

79. Answering Paragraph 79 of the Complaint, Defendants deny the allegations contained in Paragraph 79 of the Complaint.

**FOURTH CLAIM FOR RELIEF**

**(Failure to Provide Accurate Itemized Wage Statements in Violation of California Law)**

**On Behalf of the California Class Representative and California Class**

80. Answering Paragraph 80 of the Complaint, which incorporates by reference the allegations of Paragraphs 1 through 79 of the Complaint, Defendants incorporate herein by reference their answers to said Paragraphs in this Answer.

81. Answering Paragraph 81 of the Complaint, Defendants affirmatively state that

Paragraph 81 asserts a legal conclusion to which no response is required and that the statutory provisions of the California Labor Code speak for themselves.

82. Answering Paragraph 82 of the Complaint, Defendants deny the allegations contained in Paragraph 82 of the Complaint.

**FIFTH CLAIM FOR RELIEF**

**(Failure to Provide Rest Breaks and Meal Periods in Violation of California Law)**

**On Behalf of the California Class Representative and California Class**

83. Answering Paragraph 83 of the Complaint, which incorporates by reference the allegations of Paragraphs 1 through 82 of the Complaint, Defendants incorporate herein by reference their answers to said Paragraphs in this Answer.

84. Answering Paragraph 84 of the Complaint, Defendants affirmatively state that Paragraph 84 asserts a legal conclusion to which no response is required and that the statutory provisions of the California Wage Orders and Labor Code speak for themselves.

85. Answering Paragraph 85 of the Complaint, Defendants affirmatively state that Paragraph 85, and each of its subparts, asserts a legal conclusion to which no response is required and that the statutory provisions of the California Wage Orders speak for themselves.

86. Answering Paragraph 86 of the Complaint, Defendants affirmatively state that Paragraph 86 asserts a legal conclusion to which no response is required and that the statutory provisions of the California Labor Code speak for themselves.

87. Answering Paragraph 87 of the Complaint, Defendants deny the allegations contained in Paragraph 87 of the Complaint.

**SIXTH CLAIM FOR RELIEF**

**(Unfair Practice under the Unfair Competition Act)**

**On Behalf of Plaintiffs and the Nationwide Class**

88. Answering Paragraph 88 of the Complaint, which incorporates by reference the allegations of Paragraphs 1 through 87 of the Complaint, Defendants incorporate herein by reference their answers to said Paragraphs in this Answer.

89. Answering Paragraph 89 of the Complaint, Defendants affirmatively state that  
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Paragraph 89 asserts a legal conclusion to which no response is required and that the statutory provisions of the California Business and Professions Code speak for themselves. Defendants deny they engaged in any conduct that constitutes unlawful business actions and practices in violation of California law as alleged in Paragraph 89 of the Complaint.

90. Answering Paragraph 90 of the Complaint, Defendants deny the allegations contained in Paragraph 90 of the Complaint.

91. Answering Paragraph 91 of the Complaint, Defendants deny the allegations contained in Paragraph 91 of the Complaint.

#### **SEVENTH CLAIM FOR RELIEF**

##### **(Failure to Pay Overtime Compensation in Violation of Kentucky Law)**

##### **On Behalf of the Kentucky Class Representative and Kentucky Class**

92. Answering Paragraph 92 of the Complaint, which incorporates by reference the allegations of Paragraphs 1 through 91 of the Complaint, Defendants incorporate herein by reference their answers to said Paragraphs in this Answer.

93. Answering Paragraph 93 of the Complaint, Defendants affirmatively state that Paragraph 93 asserts a legal conclusion to which no response is required and that the statutory provisions of the Kentucky Revised Statutes speak for themselves.

94. Answering Paragraph 94 of the Complaint, Defendants deny the allegations contained in Paragraph 94 of the Complaint.

95. Answering Paragraph 95 of the Complaint, Defendants deny the allegations contained in Paragraph 95 of the Complaint.

#### **PLAINTIFFS' PRAYER FOR RELIEF**

96. Defendants deny that Plaintiffs or any other putative class member, whether under the FLSA, California law or Kentucky law, are entitled to any relief sought in Paragraph 1 of Plaintiffs' Prayer for Relief, and each subpart, or to any other relief whatsoever.

#### **DEMAND OF JURY TRIAL**

97. Defendants admit that Plaintiffs purport to demand a trial by jury pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, but deny that Plaintiffs are entitled to a jury trial



1 on all claims made in the Complaint. Defendants further deny that Plaintiffs are similarly situated to  
2 each other or any other current or former employees of Defendants

3 98. Unless otherwise expressly admitted, Defendants deny each and every  
4 allegation in Plaintiffs' Complaint.

5 **STATEMENT OF AFFIRMATIVE AND OTHER DEFENSES**

6 As separate and distinct affirmative and other defenses, Defendants allege the  
7 following defenses. In asserting these defenses, Defendants do not assume the burden of proof as to  
8 matters that, pursuant to law, are Plaintiffs' burden to prove.

9 **FIRST DEFENSE**

10 The complaint fails to state a claim against Defendants upon which relief can be  
11 granted.

12 **SECOND DEFENSE**

13 To the extent that the period of time alluded to in the Complaint, or the period of time  
14 alleged later in this action, predates the limitations period set forth in Section 6(a) of the Portal-to-  
15 Portal Act, 29 U.S.C. section 255(a); the five-year limitations period contained in Kentucky Revised  
16 Statutes section 413.120; the three-year limitations period contained in California Code of Civil  
17 Procedure section 338(a); the one-year limitations period governing recovery of statutory penalties  
18 contained in California Code of Civil Procedure section 340(1); the four year limitations period  
19 found in Business and Professions Code section 17208; or any other limitations period found in the  
20 California Code of Civil Procedure, including but not limited to sections 337, 339, 340, 343, or the  
21 California Business and Professions Code section 16750.1, such claims of Plaintiffs are barred.

22 **THIRD DEFENSE**

23 Plaintiffs' claims are barred in whole or in part by the provisions of Section 10 of the  
24 Portal-to-Portal Act, 29 U.S.C. section 259; Kentucky Revised Statutes section 337.385; and/or any  
25 corresponding California state law because actions taken in connection with Plaintiffs' compensation  
26 were done in good faith in conformity with and reliance upon written administrative regulations,  
27 orders, rulings, approvals, interpretations, or written and unwritten administrative practices or  
28 enforcement policies of the Administrator of the Wage and Hour Division of the United States

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1 Department of Labor and any corresponding Kentucky and California state law.

2 **FOURTH DEFENSE**

3 Plaintiffs' claims, including claims for liquidated damages, are barred in whole or in  
4 part by the provisions of Section 11 of the Portal-to-Portal Act, 29 U.S.C. section 260; Kentucky  
5 Revised Statutes section 337.385; and/or any corresponding California state law because any acts or  
6 omissions giving rise to this action were done in good faith and with reasonable grounds for  
7 believing that the actions or omissions were not a violation of the FLSA or any corresponding  
8 Kentucky and California state law. Further, because of, among other things, its good faith,  
9 Defendants asserts that any non-compliance with federal, Kentucky or California wage and hour  
10 laws was not willful and therefore, Plaintiffs are not entitled, among other things, to a third year of  
11 overtime pay under the FLSA.

12 **FIFTH DEFENSE**

13 Plaintiffs' claims are barred in whole or in part by the provisions of Section 4 of the  
14 Portal-to-Portal Act, 29 U.S.C. section 254 and any corresponding Kentucky or California state law,  
15 as to all hours during which Plaintiffs were engaged in activities which were preliminary or  
16 postliminary to their principal activities.

17 **SIXTH DEFENSE**

18 Plaintiffs' claims are barred in whole or in part by the doctrine of de minimis non  
19 curet lex.

20 **SEVENTH DEFENSE**

21 All or portions of the claims set forth in the Complaint are barred by the doctrines of  
22 waiver, estoppel, laches, or unclean hands.

23 **EIGHTH DEFENSE**

24 Plaintiffs have failed to exercise reasonable care to mitigate their damages, if any  
25 were suffered, and their right to recover against Defendants should be reduced and/or eliminated by  
26 such a failure.

27 **NINTH DEFENSE**

28 Each purported claim for relief in the Complaint, or some of the claims for relief, are  
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1 barred, or recovery should be reduced, pursuant to the doctrine of avoidable consequences.

2 **TENTH DEFENSE**

3 Plaintiffs lack standing to bring their claims as to all or a portion of the claims alleged  
4 in the Complaint.

5 **ELEVENTH DEFENSE**

6 The Complaint fails to properly state a claim for penalties under California Labor  
7 Code section 203 because there is a bona fide, good faith dispute with respect to Defendants'  
8 obligation to pay any wages that may be found to be due to Plaintiffs within the meaning and scope  
9 of California Labor Code section 203.

10 **TWELFTH DEFENSE**

11 This suit may not be properly maintained as a class action under either the FLSA, 29  
12 U.S.C. section 216(b), or under Rule 23 of the Federal Rules of Civil Procedure because: (1)  
13 Plaintiffs cannot establish the necessary procedural prerequisites for collective or class treatment and  
14 therefore cannot represent the interests of others; (2) the prosecution of separate actions by  
15 individuals would not create a risk of incompatible standards of conduct for Defendants; nor would  
16 adjudication of individual's claims impede the ability of others not parties to the adjudications to  
17 protect their interests; (3) the alleged putative group that Plaintiffs purport to represent is not so  
18 numerous that joinder is impracticable; (4) common issues of fact or law do not predominate; to the  
19 contrary, individual issues predominate; (5) Plaintiffs' claims are not representative or typical of the  
20 claims of the putative class; (6) the named Plaintiffs and alleged putative class counsel are not proper  
21 or adequate representatives for the alleged putative class; (7) Plaintiffs cannot show that class  
22 treatment of the purported causes of action in the Complaint is superior to other methods of  
23 adjudicating the controversy; (8) there is not a well-defined community of interest in the questions of  
24 law or fact affecting Plaintiffs and the members of the alleged putative class, and conflicts of interest  
25 exist between members of the alleged putative class; (9) the Complaint and the causes of action  
26 therein present difficulties that make this action unmanageable as a class action, including, but not  
27 limited to, Plaintiffs seek to certify both an opt-in class action under Rule 216(b) of the FLSA and an  
28 opt-out class action under Rule 23, which is confusing to putative members of the class.

**THIRTEENTH DEFENSE**

The Complaint fails to properly state a claim for attorney's fees under California Code of Civil Procedure section 1021.5, the California Labor Code sections 218.5, California Business and Professions Code section 17200, *et seq.*, under the FLSA, under Kentucky Revised Statutes section 337.385 or on any other basis.

**FOURTEENTH DEFENSE**

Plaintiffs and the putative class members are not entitled to equitable relief insofar as they have adequate remedies at law.

**FIFTEENTH DEFENSE**

Defendants oppose class certification and dispute the propriety of class treatment under the FLSA and/or Rule 23. If the Court certifies a class in this case over Defendants' objections under the FLSA, Rule 23 or both, then Defendants assert the affirmative defenses set forth herein against each and every member of the certified class.

**ADDITIONAL DEFENSES**

Defendants state that they do not presently know all facts concerning the conduct of Plaintiffs and their claims sufficient to state all affirmative defenses at this time. Defendants will seek leave of this Court to amend this Answer should they later discover facts demonstrating the existence of additional affirmative defenses.

**DEFENDANTS' PRAYER FOR RELIEF**

WHEREFORE, Defendants pray for relief as follows:

1. That Plaintiffs take nothing and the Complaint be dismissed in its entirety with prejudice;
2. That judgment be entered in Defendants' favor;

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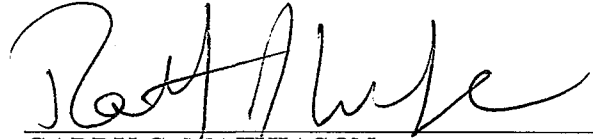
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(CASE NO. C07-06414 RMW HRL)

- 1                   3.     That Defendants be awarded their attorneys' fees and costs; and  
2                   4.     That Defendants be awarded such other and further relief as the Court deems  
3 just and proper.

4     Dated: January 16, 2008



GARRY G. MATHIASON  
ROBERT J. WILGER  
LITTLER MENDELSON  
A Professional Corporation  
Attorneys for Defendants s  
SOLETRON CORPORATION,  
FLEXTRONICS INTERNATIONAL, USA,  
INC.

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**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 50 West San Fernando Street, 15th Floor, San Jose, California 95113.2303. On January 16, 2008, I served the within document(s):

DEFENDANTS SOLECTRON CORPORATION'S AND  
FLEXTRONICS INTERNATIONAL, USA, INC.'S ANSWER AND  
AFFIRMATIVE DEFENSES TO PLAINTIFFS' COMPLAINT FOR  
DAMAGES, RESTITUTION AND INJUNCTIVE RELIEF

- ☐ by facsimile transmission at or about \_\_\_\_\_ on that date. This document was transmitted by using a facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number 408.288.5686. The transmission was reported as complete and without error. A copy of the transmission report, properly issued by the transmitting machine, is attached. The names and facsimile numbers of the person(s) served are as set forth below.
- ☒ by placing a true copy of the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at San Jose, California addressed as set forth below.
- ☐ by depositing a true copy of the same enclosed in a sealed envelope, with delivery fees provided for, in an overnight delivery service pick up box or office designated for overnight delivery, and addressed as set forth below.
- ☐ by personally delivering a copy of the document(s) listed above to the person(s) at the address(es) set forth below.

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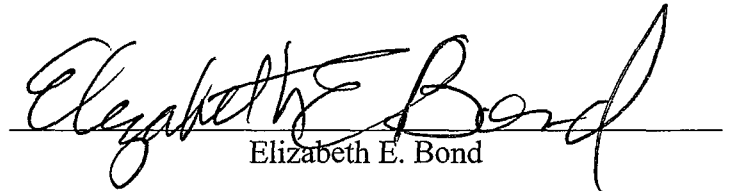
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I am readily familiar with the firm's practice of collection and processing correspondence for mailing and for shipping via overnight delivery service. Under that practice it would be deposited with the U.S. Postal Service or if an overnight delivery service shipment,



1 deposited in an overnight delivery service pick-up box or office on the same day with postage or fees  
2 thereon fully prepaid in the ordinary course of business.

3 I declare that I am employed in the office of a member of the bar of this court at  
4 whose direction the service was made. Executed on January 16, 2008, at San Jose, California.

5   
6 Elizabeth E. Bond  
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